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Chairman: Mr. Majoor ..... (Netherlands)
later: Mr. Margarian (Vice-Chairman) ..... (Armenia)
later: Mr. Majoor (Chairman) ..... (Netherlands)

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* Items which the Committee has decided to consider together.

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The meeting was called to order at 3.15 p.m.

Agenda item 62: Elimination of racism and racial discrimination (*continued*) (A/63/123)

(a) Elimination of racism, racial discrimination, xenophobia and related intolerance (*continued*) (A/63/18, A/63/306 and A/63/473)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*) (A/63/112 and Add.1, A/63/339 and A/63/366)

Agenda item 63: Right of peoples to self-determination (*continued*) (A/63/254, A/63/325 and A/63/281-S/2008/431)

1. **Mr. Nikitin** (Chairperson-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination), introducing the third report of the Working Group (A/63/325), said studying and monitoring the effects of the activities of military and security companies on the enjoyment of human rights had required country visits, dialogue with the companies concerned and the consideration of allegations of abuse made by Governments, non-governmental organizations and individuals against such companies and groups engaged in mercenary activities. It had also required a number of regional consultations.

2. Recently, during visits to several Latin American countries and to Fiji, the Working Group had investigated trends in the recruitment of personnel by private military and security companies. Following a visit to the United Kingdom, which, with the United States, registered approximately 80 per cent of all such companies, the Working Group had recommended that the Government of the United Kingdom should review its national regulations governing such companies and take a more active role in the elaboration of international regulatory instruments. The Working Group was also making preparations for visits to the United States and Afghanistan, where a number of private United States military and security companies were operating, to compare their regulatory frameworks. In addition, the Working Group had organized two consultations, one with Latin American and Caribbean countries and another with Eastern European and Central Asian countries, in order to review how new international regulatory guidelines governing private military and security companies were being developed, with a view to greater protection of human rights.

3. The Working Group regretted that the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict reflected the experience of only a limited number of countries. It therefore intended to work towards the establishment of a generalized system of regulations at the national, regional and international levels, and believed that the United Nations should assist States in drawing up a list of activities in the military and security sectors which they could not outsource to private companies.

4. In order to develop national and international mechanisms to regulate the activities of private military and security companies, the Working Group had started to establish a framework of principles and criteria. The initial step of that framework involved filling gaps in existing legal norms, particularly given the difficulty of providing a legal definition of the activities of such companies, based on the traditional concept of mercenary activities. Moreover, each country should maintain a register of its private military and security companies, requiring them to supply certain information and prohibiting them from registering in foreign countries whose systems lacked transparency. Similarly, the establishment by the United Nations of an international register based on its Register of Conventional Arms would represent a major step forward in regulating the activities of private military and security companies.

5. In order for any regulatory mechanisms to be implemented, transparency criteria should be imposed on the structures, contracts and operations of private military and security companies. The enforcement of such mechanisms could be the responsibility of domestic criminal jurisdictions or, for example, could be done through vetting mechanisms. States might also be required to report to the United Nations on the most important military and security services markets under mechanisms similar to those regulating exports of arms and military equipment, and to establish export licensing regimens for such services that might require the personnel of private military and security companies to receive training in the norms of international humanitarian law and human rights instruments and undergo criminal record checks.

6. With regard to preventing human rights violations, a monitoring mechanism was needed that allowed all parties to file complaints and ensured that any violations were prosecuted. Member States also had an interest in defining clearly, at the national level, those activities that could not be outsourced to private military and security companies, such as gaining access to weapons of mass destruction, or engaged in by such companies, such as participation in overthrowing legitimate Governments. The Working Group believed that regulating the activities of private military and security companies also required parliamentary oversight, which should include the holding of hearings and the creation of an ad hoc body for specific questions. Recommending a focus on the study and legal codification of the comprehensive system of oversight and regulation for private military and security companies, the Chairperson-Rapporteur recalled the principles outlined in paragraph 89 of the report of the Working Group.

7. In view of the new threat posed by the activities of private military and security companies, the Chairperson-Rapporteur hoped the following year to present concrete proposals on international mechanisms to assist Governments in the elaboration and adoption of national legislation on such companies, including a new international convention against the recruitment, use, financing and training of mercenaries, which could be supplemented by legal instruments aimed at strengthening human rights protection. The current International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which he urged all Member States to sign and ratify, continued to play an important role but did not adequately address some activities of private companies. The Chairperson-Rapporteur also recommended that the international community, with the support of Governments and civil society, should demonstrate greater vigilance and responsibility with respect to the activities of private military and security companies. He reaffirmed that the objective of the Working Group was to protect human rights from the consequences of States delegating the use of force, which to date had been a basic element of national sovereignty and a guarantee of the collective security system enshrined in the Charter of the United Nations.

8. **Mr. Amorós Núñez** (Cuba) said that he welcomed the generally constructive recommendations provided in the report of the Working Group. However, regarding the gaps in the International Convention against the Recruitment, Use, Financing and Training of Mercenaries mentioned by the Chairperson-Rapporteur, he wondered why a new instrument to regulate the activities of private military and security companies was necessary. He also wished to know how the Working Group planned to address the neglected issue of the participation of mercenaries in acts of terrorism against certain Member States.

9. **Mr. Vigny** (Switzerland) welcomed the concrete measures proposed in the Working Group's report and expressed the hope that the Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict, which had been adopted by 17 States, would facilitate the future work of the Working Group.

10. **Mr. McMahan** (United States of America) said that while his delegation did not always approve of the way in which the Working Group invoked international law or presented the facts in its report, it welcomed the report's emphasis on the use of private military and security companies. It was important not to confuse such companies with groups of mercenaries: although they provided vital support to armies, under no circumstances should they replace them.

11. Human rights conventions continued to be applicable during armed conflict; however, some conventions did not have an extraterritorial scope and, during armed conflict, the law of war should serve as the *lex specialis*. As a general rule, an individual could be said to violate human rights only if a Government was involved in the act committed by that person.

12. Without further clarification, one might believe, upon reading the Working Group's report, that the private military and security companies in Iraq and Afghanistan were working on behalf of the United States of America or other States, when in fact a number of them were employed by the Governments of Iraq and Afghanistan, international or non-governmental organizations, or other private companies. In addition, by implying that the civilian population was merely a victim of the operations of private military and security companies, the Working Group had failed to address the dangerous and complex nature of the situation.

13. His delegation recognized the importance of imposing standards of professionalism and transparency on private military and security

companies. Several recent incidents involving such companies were being or had been investigated and prosecuted; the United States of America had in fact amended its Federal Criminal Code and Code of Military Justice to ensure that any crimes committed by civilian contractors supporting the United States armed forces abroad did not go unpunished. He was opposed to any negotiation of an international instrument to regulate the activities of private military and security companies, since the Montreux Document, which his country had contributed to drafting, would serve as a valuable tool for potential employers of such companies.

14. **Mr. Nikitin** (Chairperson-Rapporteur of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination) said that the regulation of the activities of private military and security companies was a relatively new international issue, which was closely linked to the question of mercenaries. While drawing a sharp distinction between the legal essence of mercenary activities and that of private military and security companies, he noted that the Working Group had devoted almost half its work to studying cases involving the sometimes illegal recruitment of mercenaries. In addition to the civilian population of the countries where they operated, mercenaries themselves were sometimes victims of human rights violations because of the conditions in which they had to work in such countries as Iraq and Afghanistan.

15. A number of parallel multilateral or regional initiatives aimed at regulating the activities of private military and security companies had been undertaken, including the elaboration of the Montreux Document; the modification of the Convention for the Elimination of Mercenarism in Africa; and the adoption of a model law on counteracting mercenarism by the 12 States members of the Commonwealth of Independent States. The United Nations had ample recourse to private military and security companies in order to protect its local staff or to support its peacekeeping operations. The phenomenon whereby States, organizations or companies initially called on private military and security companies in urgent situations and ended up requiring their services indefinitely, bringing about a boom for the entire sector, was at the heart of the problem of regulating those services. Although private military and security companies earned an estimated $100 billion a year, no legal definition of authorized or illegal activities had yet been established.

16. The International Convention against the Recruitment, Use, Financing and Training of Mercenaries, which had been adapted to fit various types of activities carried out in the 1970s and 1980s, contained gaps with respect to the emergence of new situations in which private military and security companies were operating. It was therefore important to elaborate new instruments, including at the regional level, to modify existing instruments or to develop a model law for countries that wished to establish national regulations on the basis of the Convention. The Working Group should continue its consultations with interested parties in the next few years in order to reach a consensus on the principles that would govern the regulation of private military and security companies, since such principles could not be defined unilaterally. Given that all countries agreed, for various reasons, on the need for such regulation, he urged States and organizations to submit their relevant suggestions to him.

17. **Ms. Castellón** (Bolivia) reviewed the interventionist steps in economic policy, land reform, education, health and pensions taken by President Morales, the first elected indigenous leader in her country's history, in order to improve the living conditions of Bolivians and to redistribute the country's wealth more equitably. Her Government had also made efforts to end the marginalization of indigenous peoples, a situation that had been institutionalized for two centuries, by entrusting the multiparty assembly to draft a new constitution guaranteeing the rights of indigenous peoples.

18. The opposition had undermined the work of the constituent assembly, however, by meddling with the rules of procedure and attempting to revive old tensions. For their part, the authorities in the provinces of Santa Cruz, Beni, Pando and Tarija, in a separatist movement, had taken steps to assert their autonomy. Determined to find a democratic solution to those moves, President Morales had called a referendum on his policy and, on the basis of the popular support he had received, sought to renew the dialogue with the opposition and agreed to take into account in the new constitution the claims put forward by the aforementioned provinces.

19. The opposition forces had responded by stirring up anti-Government demonstrations, in which infrastructure had been attacked and 15 members of the indigenous community had been killed in Pando province by mercenaries, most likely commandeered by local authorities. In response to those terrorist and racist attacks, the President had declared a state of siege in Pando province in September 2008 in order to restore the rule of law, a measure that had been reported to the Secretary-General of the United Nations and approved by the States members of the Union of South American Nations (UNASUR).

20. Following intense negotiations between international observers from UNASUR, the United Nations, the Organization of American States (OAS) and the European Union, a referendum on the new constitution, amended to satisfy the demands of the opposition, had finally been approved on 21 October 2008. Her delegation wished to thank the United Nations for helping Bolivia to arrive at a consensus through dialogue and again requested its assistance in bringing to justice the perpetrators of the killings in Pando province and in restoring the rule of law on a permanent basis in her country.

21. **Mr. Haroon** (Pakistan) said that the right of peoples to self-determination was enshrined in the Charter of the United Nations, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and was the essential condition for guaranteeing the observance of all other human rights. From the end of the Second World War to the end of the twentieth century, the universal recognition of the right to self-determination had contributed to decolonization and had led to the creation of the majority of the States Members of the United Nations.

22. Since the 1990s, a number of international meetings, such as the 1995 World Summit for Social Development in Copenhagen and the Millennium Summit of the United Nations, held in 2000, had reaffirmed that right in situations of foreign occupation and domination. The exercise of that right had enabled peoples to determine their own political, economic, social and cultural systems. It was therefore important to recognize that the armed occupation of a territory was a violation of international law and that occupation and repression were obstacles to the exercise of the right to self-determination. The right to self-determination was immutable and occupying powers could not compromise the legitimacy of peoples' struggle to exercise it by accusing them of terrorism.

23. Pakistan had won its independence by exercising its right to self-determination. Jammu and Kashmir, however, continued to be denied that right, despite the resolutions adopted by the United Nations Security Council over the past six decades and the establishment of the United Nations Military Observer Group in India and Pakistan to ensure their observance. The demand for the complete removal of armed forces from that territory, as stipulated by the Security Council, could no longer be ignored. Pakistan was pursuing a dialogue with India, thanks to the establishment of confidence-building measures, in order to resolve the issues dividing them. The opportunity provided by that dialogue should be used to enhance the search for a negotiated settlement to the question of Jammu and Kashmir, with the full involvement of the Kashmiri people.

24. **Mr. Rezvani** (Islamic Republic of Iran) expressed his appreciation for the work done in Geneva by the Preparatory Committee for the Durban Review Conference, a process that should enhance the efforts of the international community to combat racism, racial discrimination, xenophobia and related intolerance. Since the adoption of the Durban Declaration and Programme of Action in 2001, there had been an unfortunate upsurge in such practices.

25. Modern-day racism was increasingly based on culture, nationality or religion. It was widely disseminated in the media, including on the Internet, it was encouraged by certain policies and it targeted vulnerable social groups, such as indigenous peoples, immigrants, non-nationals and religious and ethnic minorities, merely because of their differences.

26. New forms of racial discrimination and xenophobia were appearing in the guise of anti-terrorism efforts. Since 11 September 2001, they had led to the legalization of restrictions on freedom of religion. Intolerance based on religion had become the negative outcome of certain forms of radical secularism. That was inconsistent with the spirit of the Charter of the United Nations, which sought to promote peaceful coexistence among nations.

27. **Ms. Yan** Jiarong (China) said that, despite the progress made over the past seven years in implementing the Durban Declaration and Programme of Action, much remained to be done to eliminate

racism in all its forms, including Islamophobia, neo-fascism and other new forms of incitement to racial and religious hatred. The achievement of that goal would require Government efforts and enhanced international cooperation. In particular, financial and technical support must be given to developing countries to help them eradicate poverty and achieve development. In that regard, China welcomed the convening in 2009 of the Durban Review Conference and called on all parties to participate actively in its preparatory work so that the Conference would give a new impetus to the international fight against racism.

28. The right of peoples to self-determination was a sacred political right. Peoples had the right to defend themselves against foreign aggression, occupation and interference in order to safeguard their national sovereignty, independence and dignity. The international community should protect and promote that right, in accordance with the principles enshrined in the Charter of the United Nations and international law. To that end, her delegation supported the Palestinian people in their struggle to realize their right to self-determination and called on the international community and all the parties concerned to work towards the early attainment of lasting peace and stability in the Middle East.

29. **Mr. McMahan** (United States of America) said that his Government strongly supported the elimination of racial discrimination at home and abroad. He welcomed the fact that the United States had become a multiracial and multi-ethnic democracy where, thanks to a system based on equal opportunity, merit and the rule of law, Americans from diverse backgrounds could rise to the top levels of all fields of endeavour.

30. Issues relating to race, ethnicity and national origin were a constant focus of his Government's attention. Thousands of persons at all levels of power, including in the federal Government, in the 50 states and in local governments, were working every day to help fight discrimination. The courts also played an important part in ensuring respect for the Constitution and laws. The private sector and civil society played an equally important role.

31. His Government was concerned at the trend in the Committee and other United Nations bodies to conflate the two distinct issues of racism and religious intolerance. Moreover, many delegations used the argument of "defamation of religion" or proceeded on the basis of article 20 of the International Covenant on Civil and Political Rights in order to stifle freedom of speech rather than focusing on defending the freedoms and rights set forth in the Universal Declaration of Human Rights. The cure for intolerance consisted of promoting dialogue and changing discriminatory laws and practices.

32. States Members of the United Nations should be encouraged to implement their obligations under the International Convention on the Elimination of All Forms of Racial Discrimination in order to eliminate continuing inequalities within institutions and societies.

33. The United States considered that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001, had been pervaded with anti-Semitism and had focused excessively on demonizing Israel, even though Israel was itself a multi-ethnic, tolerant and democratic society. The same could not be said for some of the countries that accused it of racism. Regrettably, the planned follow-up conference appeared to be following the same trajectory.

34. His delegation hoped that Member States would find a way to move forward in a different way and take positive steps together towards the eradication of discrimination and racism and the full realization of human rights for all.

35. **Mr. De León Huerta** (Mexico) said that his country was firmly convinced of the need to combat not only racial discrimination, but also other forms of discrimination based on ethnic or national origin, gender, age, disability, social or economic status, language, religion, opinion, migratory status, sexual preference or other criteria which deprived people of the recognition and exercise of their rights while also excluding them from truly equal opportunities. Mexico had actively participated in the Regional Conference for Latin America and the Caribbean Preparatory to the Durban Review Conference, held in Brasilia, where a multifaceted view of discrimination had been supported by the Latin American and Caribbean countries.

36. He hoped that the draft outcome document of the Durban Review Conference would reflect that approach and summarize all the contributions in a concise text that would include practical measures for

strengthening the Durban Declaration and Programme of Action.

37. **Mr. Schlosser** (Israel) said that his country, a multi-ethnic and democratic society, was determined to do everything within its power to combat the blind hatred of racism and xenophobia and had ratified the International Convention on the Elimination of All Forms of Racial Discrimination. Despite the Convention's near universal ratification, his delegation noted with alarm the unprecedented rise in racist and discriminatory acts around the world, especially anti-Semitic attacks, which had increased by 7 per cent between 2006 and 2007. Racism and xenophobia were once again being woven into political speeches and programmes and were even creeping into mainstream speech.

38. Veiled anti-Semitism, often in the guise of anti-Zionism, must be unmasked. The President of the Islamic Republic of Iran had repeatedly called for the destruction of Israel, with absolute disregard for the Charter of the United Nations, and in September 2008 had made hateful and despicable comments before the General Assembly. Yet the universal condemnation that those comments should have triggered was never heard. Alliances had trumped ideals.

39. He wholeheartedly supported the assertion contained in the Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/9/12) regarding the need to accord equal treatment to combating defamation of religions in all its forms so as to avoid establishing any hierarchy in the different manifestations of discrimination, which would run contrary to the mandate given the Special Rapporteur.

40. His delegation was concerned about the preparations leading up to the Durban Review Conference. The draft outcome document contained the same rhetoric used in 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which had been a venue for the obsessive vilification of Israel and the Jewish people. There was every indication that the event would be not only a missed opportunity for States to combat racism and intolerance together in innovative ways, but also a platform for racial incitement against one nation.

41. Recalling that the seventieth anniversary of Kristallnacht would soon be commemorated, he said that words often led to actions, hence the importance of Holocaust remembrance and Holocaust education. He welcomed the Special Rapporteur's emphasis on combating indoctrination and incitement to hatred.

42. *Mr. Margarian (Armenia), Vice-Chairman, took the Chair.*

43. **Mr. Attiya** (Egypt) said that the inalienable right of self-determination, which had been reaffirmed by many international instruments, included the right of resistance to foreign occupation. Israel was depriving the Palestinian people of their inalienable right to establish an independent State, while claiming to be the only democracy in the Middle East. Democracy and occupation, however, could not coexist.

44. The international community should divest itself of politicization and selectivity and stop applying double standards to the issue of human rights, especially the right of self-determination. The Human Rights Council should investigate and deal with the human rights violations committed by Israel in the Occupied Palestinian Territory. The balanced report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/63/273) had identified numerous Israeli violations of the International Covenant on Civil and Political Rights, particularly the rights to freedom of expression and assembly and the right to mental and physical health. The United Nations should play a larger role in the context of the Quartet, especially in confidence-building, in order to promote the attainment of a just, comprehensive and lasting peace, including a full withdrawal from the occupied territories and the establishment of a Palestinian State.

45. With regard to the role of some security companies that were exacerbating conflicts and encouraging the trafficking of small arms and light weapons or the illegal exploitation of natural resources, he welcomed the work of the Working Group on mercenaries and stressed the need to strengthen capacities in the security sector of countries emerging from conflict.

46. **Mr. Rezvani** (Islamic Republic of Iran) said that, before delivering his statement on agenda item 63, he would like to respond to some remarks made by the representative of Israel. He rejected the baseless allegations and absurd distortions put forward by the representative of the Israeli regime against the Islamic

Republic of Iran and its officials. He condemned the misuse of the Committee's debates to pursue unwarranted political goals. The Islamic Republic of Iran, along with other States, had always condemned genocide against any race, ethnic group or religious group as being a crime against humanity, which could never be justified. Nor could there be any explanation for the unfortunate attempts made by some, in particular the Israeli regime, to exploit past crimes as a pretext for committing new genocides and crimes.

47. Many unwarranted and misleading remarks had been made in some Western political circles and media, and by the Zionist regime, about the statements of the President of the Islamic Republic of Iran, who had simply raised two important issues: first, the need to study certain assertions concerning different aspects of the Holocaust, and, second, if such incidents occurred, why the Palestinian people had to pay with their lives and livelihoods for crimes for which they were in no way responsible. If commemorations were to be held, the crimes against the Palestinian people should also be on the global agenda, and Israel should be prevented from continuing what one of its own officials had recently described as a holocaust against the Palestinians.

48. It was ironic to hear references to an "absolute disregard for the Charter of the United Nations" from the Israeli occupation regime, which had violated all the United Nations human rights provisions and all the obligations arising from international humanitarian law by inflicting atrocities on the Palestinian people.

49. Turning to his statement, he recalled that at its sixtieth special session, held in January 2008, the Human Rights Council had adopted resolution S-6/1, in which it had demanded that the occupying Power, Israel, lift immediately the siege it had imposed on the occupied Gaza Strip, restore continued supply of fuel, food and medicine and reopen the border crossings. The Council had also called for immediate protection of the Palestinian civilians in the Occupied Palestinian Territory in compliance with human rights law and international humanitarian law.

50. That resolution had been met with nothing but Israeli defiance and, moreover, refusal to comply with the advisory opinion of the International Court of Justice concerning the construction of a separation wall. Non-cooperation by the occupying Power must be responded to by concrete measures.

51. **Mr. Elshakshuki** (Libyan Arab Jamahiriya) said that his country condemned the defamation of religions, especially the actions that had been taken to target Islam in recent years. Following the tragic events of September 2001, Muslims and Islam had been accused of terrorism, and a fierce campaign had been waged against them in Western countries. Extreme right-wing movements had been able to spread hatred of foreigners by abusing the media to incite hatred against Muslims and the defacement of their symbols on the pretext of freedom of speech. In that context, he welcomed the Declaration of the Conference on Interfaith Dialogue, held in Madrid from 16 to 18 July 2008.

52. His country had acceded to the Slavery Convention, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention against the Recruitment, Use, Financing and Training of Mercenaries, and it considered the use of private security companies to be a new means of recourse to mercenaries.

53. Foreign occupation, in the form of illegal settlements, was a new kind of racism, a crime against humanity and a serious threat to international peace and security. His country was deeply concerned at the suffering of the Palestinian people, which had been aggravated by the building of a racist separation wall despite the resolutions of the international community.

54. *Mr. Majoor (Netherlands) resumed the Chair.*

55. **Mr. Butt** (Pakistan) said that while discrimination in all its forms persisted and was even being compounded in many societies, millions of Muslims throughout the world faced unfounded hostility and fear, exacerbated by the war against terrorism, particularly in countries torn by territorial conflicts or experiencing immigration problems. In such a favourable climate for the defamation of religion, freedom of expression was often abused.

56. Pakistan remained hopeful, nevertheless, in view of the interest that the international community had shown in the question, and welcomed the convening of the forthcoming Durban Review Conference, which should provide a mechanism to protect the victims of racial and religious hatred and to bridge legal gaps in the protection regime. Pakistan hoped that the outcome document of the Durban Review Conference would focus on strengthening international and regional

cooperation in the fight against discrimination; developing international legal mechanisms to ensure justice for victims; strengthening anti-discrimination laws and providing legal assistance to victims at the national level; investing in educational and awareness-raising measures to combat racism; and strengthening the Committee on the Elimination of Racial Discrimination.

57. **Mr. Llanos** (Chile) recalled his country's determination to combat racism, racial discrimination, xenophobia and related intolerance, as demonstrated by its active participation in the preparations for the Durban Review Conference and its contribution to the outcome document of the Regional Conference for Latin America and the Caribbean Prepatory to the Durban Review Conference, held in Brasilia. Chile had also acceded to the main international instruments to combat racism and protect the rights of migrant workers and their families. Wishing to strengthen the position of its indigenous peoples in society, Chile had ratified the International Labour Organization Convention concerning Indigenous and Tribal Peoples in Independent Countries. It had also adopted a biennial social covenant on multiculturalism, which proposed new political action for better integration of indigenous peoples, and a programme of action to strengthen Chile's political system and human rights institutions, to foster the full development of indigenous peoples and to promote cultural diversity.

58. **Mr. Shukla** (India) said that the forthcoming Durban Review Conference would provide a welcome opportunity to combat racism more effectively. India had steadfastly supported the Palestinian people in their legitimate struggle for the exercise of their inalienable rights and for the right to live in an independent and sovereign State, at peace with Israel. It therefore welcomed all efforts that would advance the dialogue between the two parties so that a just, fair and mutually acceptable solution could be found.

59. The right to self-determination, as defined in the Charter of the United Nations, should be seen in a historical perspective. It was a right applicable only to Non-Self-Governing and Trust Territories that could never be claimed by a faction or a group on the grounds of ethnicity, religion or race, nor could it be used to destroy the national unity, political cohesion or territorial integrity of a State. In that context, India could not accept the reference to the Indian state of Jammu and Kashmir made earlier by the representative of Pakistan. His comments had harmed the cause of the Palestinian people and the struggle for their inalienable rights. It was also an interference in the internal affairs of India to disregard the fact that Jammu and Kashmir was an integral part of an independent State and that its population was participating democratically in the life of the country.

60. **Mr. Lim** Boon Hun (Singapore) said that his country, small in area but great in its cultural diversity, was well aware that it had been enriched by all the peoples who had chosen to live there. Determined to preserve its multiculturalism, Singapore had always encouraged communities to cultivate their own traditions while instilling in them a sense of belonging to one nation and creating institutions that promoted diversity. His country never failed to celebrate that diversity, so as to remind Singaporean society that the peace that now prevailed in Singapore had not been built in a day or without setbacks. With the advent of globalization, Singapore had seen a significant number of new arrivals from the world over who had brought with them professional skills and new values, and to whom it had offered a place in its society.

61. **Ms. Shanidze** (Georgia) said that her country had the right to call the Russian Federation to account for the three different occasions on which it had openly violated the International Convention on the Elimination of All Forms of Racial Discrimination, to which it was a party. Between 1991 and 1994, for instance, the Russian Federation had provided arms and troops to the South Ossetian and Abkhaz separatist forces, who had engaged in ethnic cleansing and had succeeded in changing the demographic composition of those regions. After 1994, the Russian Federation had relapsed into violations not only of the Convention but also of the Sochi and Moscow Agreements that it had just signed. Thus, instead of remaining within the limits of its role as a peacekeeper and facilitating negotiations between the Georgian Government and the separatist forces, the Russian Federation had helped the separatists to virtually clear the region of Georgians by harassing them so that they would renounce their Georgian nationality. The Russian Federation had violated the Convention for a third time in August 2008 when it had launched Russian ground forces, warships and airplanes in an invasion of Georgia, and had recognized the authority of the South Ossetian and Abkhaz separatist forces.

62. Georgia called upon all Member States to condemn those violations, which were all the more outrageous because they had been committed by a permanent member of the Security Council.

63. **Mr. Al Kharashi** (Saudi Arabia) said that his Government was particularly concerned about the issue of racial discrimination. That concern was based on the teachings of Islam, which rejected all forms of discrimination, whether on the grounds of race, colour, gender or origin.

64. In accordance with the teachings of Islam, the Kingdom of Saudi Arabia's laws prohibited racial discrimination. Article 8 of the Constitution stipulated that government in the Kingdom was based on equality, consultation and justice, and article 26 guaranteed the protection of human rights. In addition, article 47 of the Constitution recognized the right of Saudi Arabian citizens and foreign nationals to have recourse to the Courts to enforce their rights.

65. The law had been strengthened by concrete measures intended to guarantee equal opportunities and the right of all to social development. In addition to a national human rights body, the Kingdom had also established the King Abdulaziz Centre for National Dialogue, whose mission was to create an enabling environment for dialogue among all members of society. The Government had also worked to make society more aware of the principles and ideas contained in the conventions on combating racism and discrimination, particularly through the media and educational institutions. It had prohibited the establishment of racist organizations and the dissemination of theories claiming the superiority of one race or group. Such activities, moreover, had been criminalized.

66. The Kingdom, which was participating in the international community's actions to combat discrimination, was a party to several international conventions, including the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the International Labour Organization Convention concerning Discrimination in Respect of Employment and Occupation. Saudi Arabia had fully cooperated in the implementation of the Durban Declaration and Programme of Action as a means of combating racism. The provisions of the conventions that it had ratified were an integral part of its legislation and could be invoked before the country's courts or administrative authorities. The Kingdom also cooperated with the mechanisms and competent bodies of the United Nations responsible for human rights issues, including the special rapporteurs.

67. Dialogue played an essential role in disseminating the values of tolerance, fraternity and understanding in the Kingdom. Convinced of the importance of such dialogue for peaceful coexistence, tolerance and cooperation between peoples, Saudi Arabia had called for the convening of a World Conference on Dialogue, where representatives of different religions and cultures had met in Madrid in July 2008. That meeting had resulted in the Madrid Declaration. Furthermore, at the request of the Kingdom, the General Assembly would shortly be holding a high-level meeting on dialogue.

68. Saudi Arabia aspired to a world of justice and equality, free from racism, racial discrimination and xenophobia. That goal could be achieved if a spirit of dialogue, fraternity and cooperation was fostered.

69. **Mr. Jung** Jin-ho (Republic of Korea) said that his country shared the international community's concerns over persistent racism, xenophobia and related human rights violations and that it remained committed to meeting the challenge of eradicating such evils by participating in the international community's efforts in that area.

70. All over the world, globalization and population movements had created the risk that social tensions related to racism might arise. Hence the need to make concerted efforts to combat racism at the international level. It was crucial for every country to participate in such efforts.

71. New information technologies, which had a great influence on young people, were increasingly being used to spread xenophobic and racist messages and should be monitored. However, as such technologies also helped to promote a culture of respect and tolerance, it was important to focus on making full use of their potential.

72. The Republic of Korea was committed to the objectives and principles contained in the Durban Declaration and Programme of Action, which provided a framework for combating racism and intolerance though its emphasis on core human rights values and

standards. The preparations for the Durban Review Conference, in which the Government of the Republic of Korea had been a participant, had revealed a divergence of views among countries. However, it was important for each country to show the necessary flexibility and willingness to compromise so that the Conference could overcome those difficulties and reach a consensus. The elaboration of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination had been another controversial issue. In that regard, it was important for the international community to seek a broad consensus by engaging in dialogue at all levels among different cultures and religions. As part of its efforts in that area, his Government was planning to host the fifth Asia-Europe Meeting Interfaith Dialogue in 2009.

73. The Republic of Korea was increasingly transforming itself from a homogeneous nation into a multi-ethnic society with a growing immigrant population. In response, his Government was putting in place a number of measures to prevent racism and to promote a culture of tolerance. After adopting an Act on the treatment of foreign nationals in Korea, the Government was currently drafting a national action plan for foreign nationals, which would come into effect in 2008. The Government had also promulgated a multicultural family support Act in September 2008. Pursuant to that Act, a multicultural family support centre had been established which aimed to facilitate the social integration of members of multicultural families.

74. The Republic of Korea hoped that the international community would continue its efforts to combat racism and racial discrimination and reiterated its strong commitment to contribute towards such efforts.

75. **Mr. Musayev** (Azerbaijan) said that his country attached great importance to the international community's concerted efforts to eradicate mercenary activities and therefore welcomed the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.

76. The principle of self-determination established by the International Court of Justice within the framework of international law had played an important role for Azerbaijan, which had lost its independence in 1920 as a consequence of military intervention, only to recover it in 1991 following the dissolution of the Soviet Union.

77. However, the right of peoples to self-determination was sometimes subject to misinterpretation, leading to secessionist movements, large-scale military actions and grave human rights and international humanitarian law violations.

78. The Human Rights Committee drew a distinction between the right to self-determination, stipulated in article 1 of the International Covenant on Civil and Political Rights, and the rights of minorities, protected under article 27 of the Covenant. Therefore, according to the Committee, the former was expressed to be a right belonging to peoples and was dealt with in a separate part of the Covenant. Article 27, on the other hand, related to rights conferred on individuals as such and was included in Part III of the Covenant.

79. On a number of occasions, the relevant United Nations bodies and experts had therefore concluded that "peoples" with the right of self-determination should be understood as whole nations and not groups within a nation. Secessionist activities therefore did not involve the exercise of a right conferred by international law. Moreover, self-determination was ruled out when claims to its realization were accompanied by the flagrant violation of human rights and international humanitarian law.

80. Thus, the use of force for the acquisition of a territory and the commission of war crimes, crimes against humanity and genocide entailed international legal responsibilities. The international community was under an obligation not to recognize separatist entities or to render assistance to them, since doing otherwise would be tantamount to endorsing the prevalence of force over justice.

81. Azerbaijan strongly believed that faithful observance of the generally accepted norms and principles of international law and the fulfilment of the obligations assumed by States were of the greatest importance for the maintenance of international peace and security. It was also clear that there could be no long-term peace and stability without justice and respect for human dignity, human rights and fundamental freedoms.

82. **Mr. Butt** (Pakistan), speaking in exercise of the right of reply, said that Pakistan rejected the

declaration delivered by the delegation of India that Jammu and Kashmir was an integral part of the Union of India. Jammu and Kashmir was the subject of an internationally recognized dispute, as demonstrated by several United Nations resolutions. No action had been taken on the request of the Security Council to organize a free and impartial plebiscite conducted under the auspices of the United Nations.

83. With regard to the reference made to the exercise of the right to self-determination by the people of Kashmir, it was common knowledge that the elections in the occupied territory of Jammu and Kashmir had been rejected not only by the United Nations Security Council, but also by the population of Kashmir.

84. With regard to the issue of human rights violations, Pakistan had simply echoed the information reported by human rights non-governmental organizations and by the Indian and international media.

85. Regarding the ongoing dialogue between the two countries, Pakistan was determined to pursue that process, which was an important tool for promoting cooperation and good-neighbourly relations. The process must however be directed towards resolving outstanding problems.

The meeting rose at 6.05 p.m.